

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

SCOTT BOYD,

Plaintiff,

v.

DEPARTMENT OF CORRECTIONS,

Defendants,

Case No. C06-5077RBL

ORDER DISMISSING  
THE COMPLAINT  
WITHOUT PREJUDICE

This Civil Rights corpus action has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. §§ 636(b)(1)(A) and 636 (b)(1)(B) and Local Magistrates' Rules MJR 3 and MJR 4. Plaintiff filed this action under 42 U.S.C. § 1983. When the court reviewed the complaint prior to service the court noted several defects. The court entered an order to amend and in response plaintiff asks to dismiss the action. (Dkt. # 7).

Pursuant to Fed. R. Civ. P. 41(a) a plaintiff may voluntarily dismiss his case when no answer or motion for summary judgment has been filed by an adverse party. Rule 41(a)(1) specifically provides that dismissal as a matter of right can be foreclosed only by the filing of an answer

This complaint has not been served and plaintiff may dismiss the action.

1 The Clerk is directed to send a copy of this Order to petitioner and to **DISMISS** this action  
2 **WITHOUT PREJUDICE.**

3 DATED this 24<sup>th</sup> day of May, 2006.

4   
5 RONALD B. LEIGHTON  
6 UNITED STATES DISTRICT JUDGE  
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8 Recommended for entry this  
9 23<sup>rd</sup> day of May, 2006.

10 /s/ J. Kelley Arnold  
11 J. Kelley Arnold  
12 United States Magistrate Judge  
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